

**MINISTER-GLAESER
SURVEYING INC.**

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May 19, 2009

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Board of Commissioners

Clark County Board of Commissioners
Clark County Public Service Center
1300 Franklin Street, 6th Floor
Vancouver, WA 98660

Subject: Appeal of Examiner's Final Order – Mo Hollow Tier II Infill Subdivision
Date of Order: May 5, 2009
Case Number: PLD2009-00007
Property Owner/Applicant: Troy Johns
Applicant's Representative: David Rosenberger

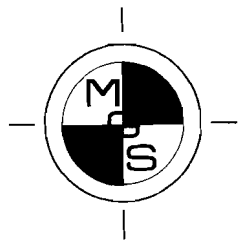
Dear Commissioners:

Mo Hollow is a preliminary approved Tier II Infill Subdivision consisting of 21 lots for single-family attached townhomes.

As part of the infill process, the applicant held a neighborhood meeting in October of 2008. At this meeting the neighbors voiced their concerns with the proposed development and the applicant attempted to address these concerns in the subdivision application. The neighbors' primary concerns were with parking; namely, that with the addition of 21 dwelling units in the neighborhood, parking would spill out of Mo Hollow onto the surrounding neighborhood streets and potentially create a nuisance for the surrounding homeowners. The applicant agreed at the neighborhood meeting to construct the individual driveways 36 feet long to accommodate an additional parking space for each new residence. Also incorporated in the preliminary townhome design is a tandem garage option which potentially adds another off-street parking space for each unit.

An additional modification to the subdivision layout, proposed to address the neighbors' concerns, is to widen the paved width of the private road to 24 feet. This would provide on street parking on one side of the private road, adding 10 spots for the development. To do this, and keep the allowable density, the applicant proposes placing some of the sidewalk in an easement. Normally, sidewalks are not allowed in easements per CCC 40.350.030(B)(3)(a). However, if sidewalks are not required of the development, can they then be placed in easement? The applicant believes so.

Clark County Code does not require sidewalks for private roads. What is required by the County's Code is a "*pedestrian access plan*" (see Attachment 1), which typically results in the construction of sidewalks adjacent to the private road. However, there are other acceptable alternatives for a pedestrian access plan, such as constructing walkways along



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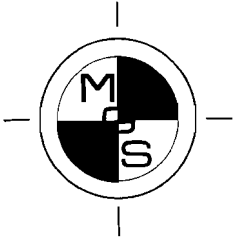
rear lot lines, for example. The proposed pedestrian access plan for this development involves a portion of the sidewalk to be in a walkway easement along the frontage of proposed Lots 1 through 9.

A note on Standard Drawing 17a "Urban Private Road" in the Standard Details Manual, states that sidewalks are required on one side of the road (see Attachment 2). This detail was used by staff as justification that sidewalks are required. The flaw with Standard Drawing 17a is that it does not accurately reflect what is stated in Code. It gives one option to meet the intent of Code; to place a sidewalk adjacent to the private road. However, there are other approvable options for a "*pedestrian access plan*". If there were no other approvable options, then CCC 40.350.030 (B)(10) would specifically require a sidewalk within the private road easement, not a "*pedestrian access plan*".

The private road section of the County's Code is vague, thus giving owners of private facilities flexibility. The applicant also contends that it is not coincidence that the incorporation by reference of the Standard Details Manual into Code, as outlined in CCC 40.350.030 (C)(1)(a), is for "*Clark County roads and bridges, and all other construction within publicly owned rights-of-way.*" Therefore, the Standard Details Manual should not be enforceable on private roadways. Regardless, the County's Code is clear on this issue where it states the Standard Details Manual is "*to implement transportation, erosion control, drainage, and other engineering standards adopted in the Clark County Code (CCC 40.350.030 (C)(1)(a)(3))*"

On page 5 of the Hearings Examiner's Decision, he states "*The only logical conclusion to be drawn from Standard Drawing 17a is that it was adopted by the BOCC to be a legally binding design standard for urban private roads*". Then why does it not reflect what is written in the County's Code? The County's Code requires a "*pedestrian access plan*" for private roads. All other road classifications are listed in the Design Criteria Tables of 40.350.030, where rights-of-way, paved widths, sidewalk design, centerline radii and other standards are listed, along with a reference to the appropriate Standard Drawing (See Tables 40.350.030-2, -3, -4, -5 & -6). The urban private road (other than Infill "A" and "B" roads) is not included in these tables and Standard Drawing 17a does not accurately reflect what is written in the County Code. Therefore, we contend that the only logical conclusion to be drawn is that what is specified in the County's Code will control over Drawing 17a, not the other way around.

The applicant has the area needed to meet the density standards, while providing the minimum requirements for this private road as outlined in Drawing 17a. However, the applicant wishes to provide improvements beyond the minimum required to address the concerns of the neighbors. The proposed plan is far superior and would result in much less of an impact on the existing neighborhood compared to the alternative options. It



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should be noted that this proposal is a direct result of the Tier II Neighborhood Meeting, which is exactly what these meetings were designed to do. It allowed the, *"owners of property adjacent to the affected property an opportunity to participate in the development process (CCC 40.260.110 (I)(1))"* and the applicant an opportunity to incorporate their concerns into the subdivision design.

In the absence of a Code requirement for sidewalks on an urban private road, the applicant proposes to place a portion of the proposed sidewalk in an easement.

For the reasons stated in this letter, the applicant request that the following conditions be stricken:

A-1(b) The developer shall provide detailed density calculations that demonstrate that each lot is at least 4,000 sf in area ~~and the sidewalk is included in the private road tract (Tract A). The total number of lots may need to be adjusted to meet maximum density limit of 9.7 units per acre.~~

A-3(d) ~~The developer shall comply with CCC 40.350.030(B)(3)(a) by including all sidewalks within the street tracts, and excluding them from area calculations for the individual lots.~~

D-1 ~~The developer shall revise the plat to show the actual lot sizes of each lot (excluding sidewalks) to be at least 4,000 sq.~~

D-9(b) Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages. ~~Sidewalks are attached except along the frontage of (insert street name) which is detached.~~"

Thank you for your consideration.

Sincerely,

David Rosenberger

*Authorized to file this appeal under UDC 40.510.030(I)(1),
as the representative of the property owner and applicant*

“ATTACHMENT 1”

40.350.030 (B)(10) Private Roads

- (2) **Additional Requirements for Urban Private Roads.** Private roads within developments may be allowed, provided they meet the following additional criteria:
- (a) **Structural sections shall be the same as for public roads of equivalent classification;**
 - (b) **A pedestrian access plan shall be approved;**
 - (c) **Internal traffic calming measures or devices such as speed humps or traffic circles may be required; and**
 - (d) **Minimum curb to curb width shall be twenty (20) feet with parallel parking prohibited on streets that are less than twenty-four (24) feet wide; provided, in nonresidential areas, the minimum curb to curb width shall be twenty (20) feet with parallel parking prohibited on streets that are less than twenty-eight (28) feet wide.**

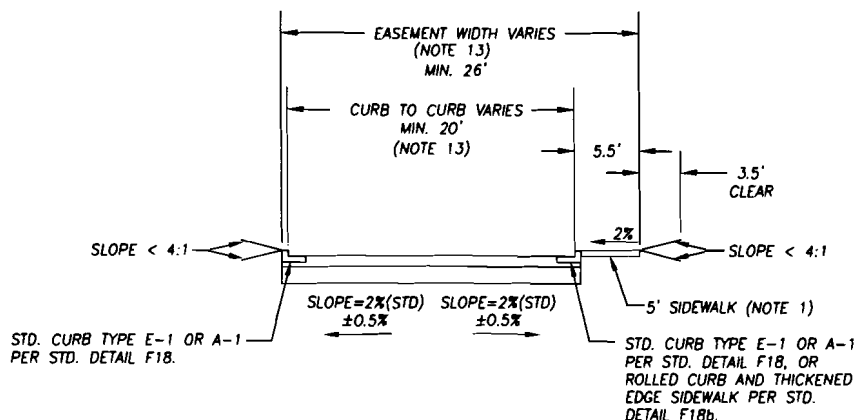


TABLE 1

CONVENTIONAL CONSTRUCTION			THICK ASPHALT CONSTRUCTION	
AASHTO SOIL TYPE	ASPHALT THICKNESS	BASE ROCK THICKNESS (NOTE 7)	ASPHALT THICKNESS	BASE ROCK THICKNESS (NOTE 7)
A-1	0.20'	0.50'	0.26'	0.25'
A-2	0.20'	0.50'	0.26'	0.25'
A-3	0.20'	0.50'	0.26'	0.25'
A-4	0.20'	0.50'	0.26'	0.25'
A-5	0.20'	0.50'	0.26'	0.25'
A-6	0.20'	0.70'	0.29'	0.25'
A-7	0.20'	1.50'	0.38'	0.25'
OTHER	NO SECTION	ESTIMATED	NO SECTION	ESTIMATED

TABLE 2

CONVENTIONAL CONSTRUCTION				THICK ASPHALT CONSTRUCTION		
AASHTO SOIL TYPE	INITIAL ASPHALT THICKNESS (NOTE 4)	FINAL ASPHALT THICKNESS (NOTE 5)	BASE ROCK THICKNESS (NOTE 7)	INITIAL ASPHALT THICKNESS (NOTE 4)	FINAL ASPHALT THICKNESS (NOTE 5)	BASE ROCK THICKNESS (NOTE 7)
A-1	0.13'	0.26'	0.50'	0.20'	0.33'	0.25'
A-2	0.13'	0.26'	0.50'	0.20'	0.33'	0.25'
A-3	0.13'	0.26'	0.50'	0.20'	0.33'	0.25'
A-4	0.13'	0.26'	0.50'	0.20'	0.33'	0.25'
A-5	0.13'	0.26'	0.50'	0.20'	0.33'	0.25'
A-6	0.13'	0.26'	0.50'	0.23'	0.36'	0.25'
A-7	0.13'	0.26'	1.10'	0.25'	0.38'	0.25'
OTHER	NO SECTION	ESTIMATED	ESTIMATED	NO SECTION	ESTIMATED	ESTIMATED

NOTES:

- PRIVATE ROADS SHALL HAVE SIDEWALK ON ONE SIDE, AT A MINIMUM. SIDEWALK MAY BE DETACHED AND BE ASPHALT OR CEMENT CONCRETE. IF ATTACHED SIDEWALKS ARE INSTALLED WITH MOUNTABLE ROLLED CURB AND GUTTER, THE SIDEWALK SHALL BE THICKENED SIDEWALK PER STD. DETAIL F18b.
- TABLE 1 APPLIES WHEN THE PAVEMENT SECTION WILL BE FULLY COMPLETED BEFORE BEGINNING CONSTRUCTION OF RESIDENTIAL UNITS.
- TABLE 2 APPLIES WHEN THE FINAL LIFT OF THE PAVEMENT SECTION WILL BE PLACED AFTER COMPLETION OF RESIDENTIAL UNITS.
- THE INITIAL ASPHALT THICKNESS FOR TABLE 2 IS THE MINIMUM ASPHALT THICKNESS REQUIRED BEFORE OPENING THE ROAD TO RESIDENTIAL CONSTRUCTION RELATED TRAFFIC.
- THE FINAL ASPHALT THICKNESS FOR TABLE 2 IS THE MINIMUM TOTAL ASPHALT THICKNESS REQUIRED IN THE FINAL PAVEMENT SECTION.
- PRIOR TO PLACING THE FINAL LIFT, THE INITIAL ASPHALT SECTION SHALL BE INSPECTED AND ANY DEFECTS, SUCH AS CRACKS, SAGS OR RUTS SHALL BE REPAIRED.
- SUBGRADE REINFORCEMENT GEOTEXTILE SHALL BE INSTALLED OVER ALL A-6 AND A-7 SOIL PRIOR TO CONSTRUCTING THE BASE. SUBGRADE REINFORCEMENT GEOTEXTILE SHALL ALSO BE INSTALLED OVER A-4 AND A-5 SOIL PRIOR TO CONSTRUCTING THE BASE WHEN THE BASE THICKNESS IS LESS THAN 0.75 FT.
- THE PAVEMENT STRUCTURE THICKNESSES IDENTIFIED FOR THE ABOVE SOIL TYPES AND CONSTRUCTION CASES ARE REQUIRED IN THE ABSENCE OF A SITE SPECIFIC PAVEMENT DESIGN. THE TOTAL PAVEMENT STRUCTURE SHALL NOT EXCEED 2.5 FT.
- ASPHALT CONCRETE SHALL BE WSDOT CLASS A, B, OR HMA EQUIVALENT.
- EITHER CONVENTIONAL OR THICK ASPHALT CONSTRUCTION IS ALLOWED.
- ROADWAY SLOPE OUTSIDE LISTED RANGE ALLOWED WITH APPROVAL FOR FRONTAGE/MATCHING SITUATIONS.
- THE SUBGRADE AND CRUSHED SURFACING MATERIALS SHALL BE COMPACTED PER WSDOT STANDARDS.
- WHEN CURB TO CURB WIDTH IS 20', PARALLEL PARKING IS PROHIBITED, AND EASEMENT SHALL BE MINIMUM 26' WIDE. WHEN CURB TO CURB WIDTH IS 24', PARALLEL PARKING IS ALLOWED ON ONE SIDE ONLY, AND EASEMENT SHALL BE MINIMUM 30' WIDE.



Department of
Public Works
CLARK COUNTY
WASHINGTON
proud past, promising future

URBAN PRIVATE ROAD
(RESIDENTIAL AREAS)

Peter Capen
COUNTY ENGINEER

APPROVED

5/23/08
DATE

DRAWING
17A

DESIGNED
DRAWN
DATE 05/23/08